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| 10/573,946 | 03/29/2006 | Joannes Henricus Maria de Kroon | 903-185 PCT/US | 1760 |

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| EXAMINER | |
|---|---|
| WHITE, RODNEY BARNETT | |
| ART UNIT | PAPER NUMBER |
| 3636 | |
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/573,946 | DE KROON ET AL. | |
| | Examiner | Art Unit | |
| | Rodney B. White | 3636 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *18 September 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *7-11* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *7-11* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 7-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 7, line 7, "the second stage" lacks antecedent basis.

In claim 8, line 1, "the first stage" lacks antecedent basis. On line 3, "the lower-leg lengths" lacks antecedent basis.

In claim 9, lines 1 and 3, "the first stage" and "the second stage" lack antecedent basis. On line 3, "the lower-leg lengths" lacks antecedent basis. Also, in claim 9, is Applicant claiming body parts of the person sitting in the chair? To what is Applicant referring when mentioning "a value of 130° for the curvature of the thigh with respect to the upright trunk"? Applicant is reminded that his invention should be patentable on the structure alone and not the person using it or when the structure is in use.

In claim 10, what does Applicant mean by "without support at the location of the spinal column"? The phrase "without support at the location of the spinal column" is unclear and confusing language.

In claim 11, what does Applicant mean by "without support at the location of the spinal column"? Also, what does Applicant mean by "presses pivotably the backrest parts forwards"? The claim is filled with unclear and confusing language.

The aforementioned problems render the claims vague and indefinite. Clarification and/or correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000.

Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 7-9, so far as understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Cramer (U.S. Patent No. 3,446,532).

Cramer teaches a work chair, comprising a seat 18, supported in a height-adjustable manner by a column 14 on a foot, and an adjustable backrest 20, the seat, at least in part, having a substantially horizontal position and the backrest promoting an upright position of the user's back, wherein the column is composed of three parts and as a result provides a two-stage adjustability for the seat height, in that the seat is divided into two parts, in such a manner that a rear section 22 is fixed and always retains the substantially horizontal position, while a front section 24 is hinged with respect to the rear section, and in that the front section is secured to the second stage of the column in a hinged manner by a rod 60 or 72 secured to it in a hinged manner, wherein the first stage of the column is dimensioned in such a way that the seat height, determined by the fixed section of the seat, has an individual setting based on the lower-leg lengths encountered, and in that the second stage of the column has a maximum height adjustment which gives a value of 130° for the curvature of the thigh with respect to the upright trunk (See Figures 5-6).

Claims 7-9, so far as understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Hosoe (U.S. Patent No. 5,401,077).

Hosoe teaches a work chair, comprising a seat 2, supported in a height-adjustable manner by a column 5 on a foot, and an adjustable backrest 6, the seat, at least in part, having a substantially horizontal position and the backrest promoting an upright position of the user's back, wherein the column is composed of three parts and as a result provides a two-stage adjustability for the seat height, in that the seat is divided into two parts, in such a manner that a rear section 2a is fixed and always retains the substantially horizontal position, while a front section 2b is hinged with respect to the rear section, and in that the front section is secured to the second stage of the column in a hinged manner by a rod 10 secured to it in a hinged manner, wherein the first stage of the column is dimensioned in such a way that the seat height, determined by the fixed section of the seat, has an individual setting based on the lower-leg lengths encountered, and in that the second stage of the column has a maximum height adjustment which gives a value of 130° for the curvature of the thigh with respect to the upright trunk (See Figures 6a-c).

Claims 7-9, so far as understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Kapec et al (U.S. Patent No. 5,435,623).

Kapec et al teach a work chair, comprising a seat, supported in a height-adjustable manner by a column on a foot, and an adjustable backrest, the seat, at least in part, having a substantially horizontal position and the backrest promoting an upright position of the user's back, wherein the column is composed of three parts and as a result provides a two-stage adjustability for the seat height, in that the seat is divided

into two parts, in such a manner that a rear section is fixed and always retains the substantially horizontal position, while a front section is hinged with respect to the rear section, and in that the front section is secured to the second stage of the column in a hinged manner by a rod secured to it in a hinged manner, wherein the first stage of the column is dimensioned in such a way that the seat height, determined by the fixed section of the seat, has an individual setting based on the lower-leg lengths encountered, and in that the second stage of the column has a maximum height adjustment which gives a value of 130° for the curvature of the thigh with respect to the upright trunk (See Figures 1-5).

Claims 7-9, so far as understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Pinto (U.S. Patent No. 5,536,067).

Pinto teaches a work chair, comprising a seat, supported in a height-adjustable manner by a column on a foot, and an adjustable backrest, the seat, at least in part, having a substantially horizontal position and the backrest promoting an upright position of the user's back, wherein the column is composed of three parts and as a result provides a two-stage adjustability for the seat height, in that the seat is divided into two parts, in such a manner that a rear section is fixed and always retains the substantially horizontal position, while a front section is hinged with respect to the rear section, and in that the front section is secured to the second stage of the column in a hinged manner by a rod 46 secured to it in a hinged manner, wherein the first stage of the column is dimensioned in such a way that the seat height, determined by the fixed

section of the seat, has an individual setting based on the lower-leg lengths encountered, and in that the second stage of the column has a maximum height adjustment which gives a value of 130° for the curvature of the thigh with respect to the upright trunk (See Figures 1-3B).

Claims 7-9, so far as understood, are rejected under 35 U.S.C. 102(e) as being anticipated by Deisig (U.S. Patent No. 6,752,459 B2).

Deisig teaches a work chair, comprising a seat, supported in a height-adjustable manner by a column on a foot, and an adjustable backrest, the seat, at least in part, having a substantially horizontal position and the backrest promoting an upright position of the user's back, wherein the column is composed of three parts and as a result provides a two-stage adjustability for the seat height, in that the seat is divided into two parts, in such a manner that a rear section is fixed and always retains the substantially horizontal position, while a front section is hinged with respect to the rear section, and in that the front section is secured to the second stage of the column in a hinged manner by a rod 15 secured to it in a hinged manner, wherein the first stage of the column is dimensioned in such a way that the seat height, determined by the fixed section of the seat, has an individual setting based on the lower-leg lengths encountered, and in that the second stage of the column has a maximum height adjustment which gives a value of 130° for the curvature of the thigh with respect to the upright trunk (See Figures 5-6).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cramer (U.S. Patent No. 3,446,532) in view of Ross et al (U.S. Patent No. 4,161,337).

Cramer teaches the structure substantially as claimed but does not teach the backrest comprised of two parts. However, Ross et al teaches the concept of to backrest parts 51,52 wherein the backrest comprises two parts, without support at the location of the spinal column and in that the backrest is provided with a passive spring system which presses pivotably the backrest parts forwards to be old (See Abstract and specification). It would have been obvious and well within the level of ordinary skill in the art to modify the backrest, as taught by Cramer, to include a backrest with two parts, as taught by Ross et al, since the two backrest parts will provide distributed support on each side of the sacrolumbar region of the spine of the user and relive the spine of all contact with the back and support the body on each side of the spine, distributing the supportive forces over the specific areas needing them while the cushioning portions of the two backrest parts automatically accommodate the shape of the user's back and provide proper and gentle distributed support to the lower back area and maintain optimum posture and minimize strain the person seated in the chair.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wilkerson teaches concepts similar to the present invention.

**Remarks**

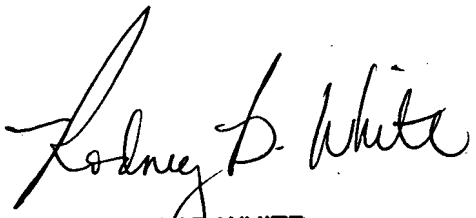
Applicant needs to really clarify the claim language of the present invention. Perhaps the unclear and vague language is a result of the specification being translated from a foreign language. But there are so many limitations claimed that are fully defined or properly laid out so that one skilled in the art cold read the claims and build the structure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney B. White whose telephone number is (571) 272-6863. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on (571) 272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Rodney B. White,
Patent Examiner
Art Unit 3636
July 12, 2007



RODNEY B. WHITE
PRIMARY EXAMINER